



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2014-0884; FRL-9924-55-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Determination of Attainment of the 2008 8-Hour Ozone National Ambient Air Quality Standard for the Baltimore, Maryland Moderate Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to make a determination that the Baltimore, Maryland Moderate Nonattainment Area (Baltimore Area) has attained the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). This proposed determination is based upon complete, quality-assured, and certified ambient air monitoring data that shows the Area has monitored attainment of the 2008 8-hour ozone NAAQS for the 2012-2014 monitoring period. If this proposal becomes final, the requirement for this Area to submit an attainment demonstration, reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures related to attainment of the 2008 8-hour ozone NAAQS shall be suspended for so long as the Area continues to attain the 2008 8-hour ozone NAAQS. This action does not constitute a redesignation to attainment. The Baltimore Area will remain nonattainment for the 2008 8-hour ozone NAAQS until such time as EPA determines that the Baltimore Area meets the Clean Air Act (CAA) requirements for redesignation to attainment, including an approved maintenance plan. This action is being taken under the CAA.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION]**.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2014-0884 by one of the following methods:

- A. www.regulations.gov. Follow the on-line instructions for submitting comments.
- B. E-mail: fernandez.cristina@epa.gov.
- C. Mail: EPA-R03-OAR-2014-0884, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.
- D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2014-0884. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of

the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814-2166, or by e-mail at shandruk.irene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (annual fourth-highest daily maximum 8-hour average concentration, averaged over three years) to provide increased protection of public health and the environment. 73 FR 16436 (March 27, 2008).¹ The 2008 ozone NAAQS retains the same

¹ For a detailed explanation of the calculation of the 3-year 8-hour average, see 40 CFR part 50, appendix I.

general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. On May 21, 2012 (77 FR 30088), effective July 20, 2012, EPA designated as nonattainment any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008-2010) of air monitoring data. The Baltimore Area (specifically, Anne Arundel County, Baltimore City, Baltimore County, Carroll County, Harford County, and Howard County) was designated as a moderate ozone nonattainment area. *See* 40 CFR 81.321. Moderate areas are required to attain the 2008 8-hour ozone NAAQS by no later than six years after the effective date of designations, or July 20, 2018. *See* 40 CFR 51.903. Air quality monitoring data from the 2012-2014 monitoring period indicate that the Baltimore Area is now attaining the 2008 8-hour ozone NAAQS.

Under the provisions of EPA's ozone implementation rule (40 CFR 51.918), if EPA issues a determination that an area is attaining the relevant standard (through a rulemaking that includes public notice and comment), it will suspend the area's obligations to submit an attainment demonstration, RACM, RFP, contingency measures and other planning requirements related to attainment of the 2008 8-hour ozone NAAQS for as long as the area continues to attain the standard. This suspension remains in effect until such time, if ever, that EPA (i) redesignates the area to attainment at which time those requirements no longer apply, or (ii) subsequently determines that the area has violated the 2008 8-hour ozone NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. The determination of attainment is not equivalent to a redesignation under section 107(d)(3) of the CAA. The designation status of the Baltimore Area will remain nonattainment for the 2008 8-hour ozone NAAQS until such time as EPA

determines that the Area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan. Additionally, the determination of attainment is separate from, and does not influence or otherwise affect, any future designation determination or requirements for the Baltimore Area based on any new or revised ozone NAAQS, and it remains in effect regardless of whether EPA designates this Area as a nonattainment area for purposes of any new or revised ozone NAAQS.

II. EPA's Evaluation

For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR part 50, based on three complete, consecutive calendar years of quality-assured ambient air monitoring data. Under EPA regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.075 ppm. *See* 40 CFR part 50, appendix P. This 3-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each monitor within the area, then the area is attaining the NAAQS. Also, the data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than or equal to 90 percent (%), and no single year has less than 75% data completeness as determined in appendix P of 40 CFR part 50. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the EPA Air Quality System (AQS).

EPA has reviewed the complete, quality-assured and certified ozone ambient air monitoring data for the monitoring period for 2012-2014 for the Baltimore Area. The design values for each

monitor for the years 2012-2014 are less than or equal to 0.075 ppm, and all monitors meet the data completeness requirements (*see* Table 1). Based on this 2012-2014 data from the AQS database and consistent with the requirements contained in 40 CFR part 50, EPA has concluded that this Area attained the 2008 8-hour ozone NAAQS.

Table 1: 2012-2014 Baltimore Area 2008 8-Hour Ozone Design Values

Monitor ID	Average percent (%) data completeness	2012-2014 Design value (ppm)
24-003-0014	97	0.074
24-005-1007	95	0.072
24-005-3001	99	0.072
24-013-0001	99	0.069
24-025-1001	98	0.075
24-025-9001	96	0.073
24-510-0054	90	0.064

The data in Table 1 are available in EPA's AQS database. The AQS report with this data is available in the docket for this rulemaking under docket number EPA-R03-OAR-2014-0884 and available online at www.regulations.gov, docket number EPA-R03-OAR-2014-0884.

III. Proposed Action

EPA is proposing to make a determination that the Baltimore Area has attained the 2008 8-hour ozone NAAQS. This proposed determination is based upon complete, quality-assured, and certified ambient air monitoring data that show the Baltimore Area has monitored attainment of the 2008 8-hour ozone NAAQS for the 2012-2014 monitoring period. Once this proposal is final, the requirement for this Area to submit an attainment demonstration, RACM, a RFP plan, contingency measures, and other planning requirements related to attainment of the 2008 8-hour ozone NAAQS shall be suspended for so long as the Baltimore Area continues to attain the 2008 8-hour ozone NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. Finalizing

this determination does not constitute a redesignation of the Baltimore Area to attainment for the 2008 8-hour ozone NAAQS under CAA section 107(d)(3). This determination of attainment also does not involve approving any maintenance plan for the Baltimore Area and does not determine that the Baltimore Area has met all the requirements for redesignation under the CAA, including that the attainment be due to permanent and enforceable measures. Therefore, the designation status of the Baltimore Area will remain nonattainment for the 2008 8-hour ozone NAAQS until such time as EPA takes final rulemaking action to determine that such Area meets the CAA requirements for redesignation to attainment. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

This action proposes to make an attainment determination based on air quality data and would, if finalized, result in the suspension of certain Federal requirements and would not impose any additional requirements. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, concerning a determination of attainment for the 2008 ozone NAAQS for the Baltimore Area, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the State Implementation Plan (SIP) is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 et seq.

Dated: March 6, 2015.

William C. Early,
Acting Regional Administrator,
Region III.

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